

Executive Summary – Enforcement Matter – Case No. 51639
DEWEYVILLE OIL COMPANY dba Speedy Express 2
RN102382058
Docket No. 2015-1800-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Speedy Express 2, 5480 College Street, Beaumont, Jefferson County

Type of Operation:

Convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 29, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$7,750

Amount Deferred for Expedited Settlement: \$1,550

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$180

Total Due to General Revenue: \$6,020

Payment Plan: 35 payments of \$172 each

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Unsatisfactory

Site/RN - Unsatisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 5, 2015

Date(s) of NOE(s): December 2, 2015

Executive Summary – Enforcement Matter – Case No. 51639
DEWEYVILLE OIL COMPANY dba Speedy Express 2
RN102382058
Docket No. 2015-1800-PST-E

Violation Information

1. Failed to maintain underground storage tank ("UST") records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].
2. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].
3. Failed to have at least one certified operator (Class A, B, or C) present at the Facility at all times during hours of operation [30 TEX. ADMIN. CODE § 334.602(a)(4)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. Submitted documentation to the TCEQ Beaumont Regional Office demonstrating all UST records are being maintained as of October 15, 2015; and
- b. Submitted documentation that the USTs are being monitored for releases at a frequency of at least once every month as of December 11, 2015.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, implement procedures or guidance to ensure that at least one certified operator is present at the Facility at all times during the hours of operation; and
- b. Within 45 days, submit written certification to demonstrate compliance with a.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 51639
DEWEYVILLE OIL COMPANY dba Speedy Express 2
RN102382058
Docket No. 2015-1800-PST-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jonathan Nguyen, Enforcement Division,
Enforcement Team 6, MC 128, (512) 239-1661; Michael Parrish, Enforcement Division,
MC 219, (512) 239-2548

TCEQ SEP Coordinator: N/A

Respondent: Karam Ali, President, DEWEYVILLE OIL COMPANY, P.O. Box 472,
Newton, Texas 75966

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ
DATES

Assigned PCW

7-Dec-2015
10-Dec-2015

Screening

8-Dec-2015

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent

DEWEYVILLE OIL COMPANY dba Speedy Express 2

Reg. Ent. Ref. No.

RN102382058

Facility/Site Region

10-Beaumont

Major/Minor Source

Minor

CASE INFORMATION

Enf./Case ID No.

51639

Docket No.

2015-1800-PST-E

Media Program(s)

Petroleum Storage Tank

Multi-Media

No. of Violations

3

Order Type

1660

Government/Non-Profit

No

Enf. Coordinator

Jonathan Nguyen

EC's Team

Enforcement Team 6

Admin. Penalty \$ Limit Minimum

\$0

Maximum

\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1

\$6,250

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

35.0%

Adjustment

Subtotals 2, 3, & 7

\$2,187

Notes

Enhancement for one default order and unsatisfactory performer classification.

Culpability

No

0.0%

Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5

-\$687

Economic Benefit

Total EB Amounts

\$24

Estimated Cost of Compliance

\$2,200

0.0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6

\$0

SUM OF SUBTOTALS 1-7

Final Subtotal

\$7,750

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

\$7,750

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$7,750

DEFERRAL

20.0%

Reduction

Adjustment

-\$1,550

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$6,200

Screening Date 8-Dec-2015

Docket No. 2015-1800-PST-E

PCW

Respondent DEWEYVILLE OIL COMPANY dba Speedy Express 2

Policy Revision 4 (April 2014)

Case ID No. 51639

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102382058

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jonathan Nguyen

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one default order and unsatisfactory performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 35%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 35%

Screening Date	8-Dec-2015	Docket No.	2015-1800-PST-E	PCW
Respondent	DEWEYVILLE OIL COMPANY dba Speedy Express 2			Policy Revision 4 (April 2014)
Case ID No.	51639			PCW Revision March 26, 2014
Reg. Ent. Reference No.	RN102382058			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Jonathan Nguyen			
Violation Number	<input type="text" value="1"/>			
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.10(b)"/>			
Violation Description	<input agency="" and="" available="" by="" for="" immediately="" inspection="" make="" personnel."="" records="" request="" them="" type="text" upon="" ust")="" value="Failed to maintain underground storage tank ("/>			
Base Penalty	<input type="text" value="\$25,000"/>			

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	<input type="text"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent DEWEYVILLE OIL COMPANY dba Speedy Express 2
 Case ID No. 51639
 Reg. Ent. Reference No. RN102382058
 Media Petroleum Storage Tank
 Violation No. 1

Percent Interest 5.0
 Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
 Item Description

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	5-Oct-2015	15-Oct-2015	0.03	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain UST records and make them immediately available for inspection upon request by TCEQ personnel. The Date Required is the investigation date and Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$1

Screening Date 8-Dec-2015

Docket No. 2015-1800-PST-E

PCW

Respondent DEWEYVILLE OIL COMPANY dba Speedy Express 2

Policy Revision 4 (April 2014)

Case ID No. 51639

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102382058

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jonathan Nguyen

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)

Violation Description

Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

64 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended based on documentation of the violation during the October 5, 2015 investigation to the December 8, 2015 screening date.

Good Faith Efforts to Comply

10.0%

Reduction \$375

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		

Notes

The Respondent came into compliance on December 11, 2015, after to the NOE dated December 2, 2015.

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$4,688

This violation Final Assessed Penalty (adjusted for limits) \$4,688

Economic Benefit Worksheet

Respondent DEWEYVILLE OIL COMPANY dba Speedy Express 2

Case ID No. 51639

Reg. Ent. Reference No. RN102382058

Media Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	5-Oct-2015	11-Dec-2015	0.18	\$14	n/a	\$14

Notes for DELAYED costs

Estimated cost to monitor the USTs for releases. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$14

Screening Date 8-Dec-2015

Docket No. 2015-1800-PST-E

PCW

Respondent DEWEYVILLE OIL COMPANY dba Speedy Express 2

Policy Revision 4 (April 2014)

Case ID No. 51639

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102382058

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jonathan Nguyen

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 334.602(a)(4)

Violation Description

Failed to have at least one certified operator (Class A, B, or C) present at the Facility at all times during hours of operation.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

64 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended based on documentation of the violation during the October 5, 2015 investigation to the December 8, 2015 screening.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$1,688

This violation Final Assessed Penalty (adjusted for limits) \$1,688

Economic Benefit Worksheet

Respondent DEWEYVILLE OIL COMPANY dba Speedy Express 2
Case ID No. 51639
Reg. Ent. Reference No. RN102382058
Media Petroleum Storage Tank
Violation No. 3

Percent Interest 5.0
Years of Depreciation 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$200	5-Oct-2015	2-Sep-2016	0.91	\$9	n/a	\$9
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of implementing procedures or guidance to ensure that at least one certified operator is present at the Facility at all times during the hours of operation. The Date Required is the investigation date. The Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$9

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN604785030, RN102382058, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN604785030, DEWEYVILLE OIL COMPANY

Classification: UNSATISFACTORY **Rating:** 114.75

Regulated Entity: RN102382058, SPEEDY EXPRESS 2

Classification: UNSATISFACTORY **Rating:** 114.75

Complexity Points: 4

Repeat Violator: NO

CH Group: 01 - Gas Stations with convenience Stores and other Gas Stations

Location: 5480 COLLEGE ST, BEAUMONT, JEFFERSON COUNTY, TX

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 40089

Compliance History Period: September 01, 2010 to August 31, 2015

Rating Year: 2015

Rating Date: 09/01/2015

Date Compliance History Report Prepared: December 08, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 08, 2010 to December 08, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jonathan Nguyen

Phone: (512) 239-1661

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 07/03/2013 ADMINORDER 2011-2313-PST-E (Findings Order-Default)

Classification: Major

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(4)(A)(vii)

30 TAC Chapter 334, SubChapter A 334.8(c)(5)(B)(ii)

Description: Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), as documented during an investigation conducted on October 18, 2011. Specifically, the delivery certificate expired on June 30, 2011

Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.3467(a)

30 TAC Chapter 334, SubChapter A 334.8(c)(5)(A)(i)

Description: Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), as documented during an investigation conducted on October 18, 2011. Specifically, the Respondent accepted three fuel deliveries on September 28 and 30, and October 11, 2011 without a delivery certificate

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)
30 TAC Chapter 334, SubChapter C 334.50(b)(2)(A)(i)

Description: Failed to equip each separate pressurized line with an automatic line leak detector, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on October 18, 2011. Specifically, the UST system piping was not equipped with line leak detectors
Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.45(c)(3)(A)

Description: Failed to install an emergency shutoff valve (also known as shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser, in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A), as documented during an investigation conducted on October 18, 2011. Specifically, the shear valves on dispenser nos. 1 and 5 were not anchored
Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)
30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(ii)

Description: Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on October 18, 2011
Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.45(d)(1)(E)(vi)

Description: Failed to equip tank manways and dispenser sumps of a secondary contained UST system with liquid sensing probes, in violation of 30 TEX. ADMIN. CODE § 334.45(d)(1)(E)(vi), as documented during an investigation conducted on October 18, 2011. Specifically, the sump for dispenser no. 3 did not have a liquid sensing probe installed
Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)
30 TAC Chapter 115, SubChapter C 115.246(3)
30 TAC Chapter 115, SubChapter C 115.246(4)
5C THSC Chapter 382 382.085(b)

Description: Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(1), (3), and (4) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 18, 2011. Specifically, a copy of the correct California Air Resources Board Executive Order, Stage II maintenance records, and employee training records were not available for review.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(1)
30 TAC Chapter 115, SubChapter C 115.245(2)
5C THSC Chapter 382 382.085(b)

Description: Failed to verify proper operation of the Stage II equipment at least once every 12 months and the vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first, in violation of 30 TEX. ADMIN. CODE § 115.245(1) and (2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 18, 2011. Specifically, the Respondent replaced the dispensers and Stage II equipment
Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(9)
5C THSC Chapter 382 382.085(b)

Description: Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 18, 2011

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	February 28, 2012	(988562)
Item 2	January 10, 2013	(1051974)
Item 3	July 10, 2015	(1260776)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DEWEYVILLE OIL COMPANY
DBA SPEEDY EXPRESS 2
RN102382058

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2015-1800-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding DEWEYVILLE OIL COMPANY dba Speedy Express 2 ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent operates a convenience store with retail sales of gasoline located at 5480 College Street in Beaumont, Jefferson County, Texas (the "Facility").
2. The Respondent's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 7, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of \$7,750 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$180 of the penalty and \$1,550 is deferred contingent upon the Respondent's timely and

satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$6,020 of the penalty shall be paid in 35 monthly payments of \$172 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
 - a. Submitted documentation to the TCEQ Beaumont Regional Office demonstrating all UST records are being maintained as of October 15, 2015; and
 - b. Submitted documentation that the USTs are being monitored for releases at a frequency of at least once every month as of December 11, 2015.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As operator of the Facility, the Respondent is alleged to have:

1. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on October 5, 2015.
2. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on October 5, 2015.
3. Failed to have at least one certified operator (Class A, B, or C) present at the Facility at all times during hours of operation, in violation of 30 TEX. ADMIN. CODE § 334.602(a)(4), as documented during an investigation conducted on October 5, 2015.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: DEWEYVILLE OIL COMPANY dba Speedy Express 2, Docket No. 2015-1800-PST-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement procedures or guidance to ensure that at least one certified operator is present at the Facility at all times during the hours of operation, in accordance with 30 TEX. ADMIN. CODE § 334.602; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Bernard Monzie
For the Executive Director

9/2/16
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Karam
Signature

3/31/16
Date

Karam Ali
Name (Printed or typed)
Authorized Representative of
DEWEYVILLE OIL COMPANY dba Speedy Express 2

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.